

REMARKS

The Office Action dated February 1, 2008 has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

Claims 1, 6, 10, 13, 17-20, 22-25 have been amended to more particularly point out and distinctly claim the subject matter of the invention. Claims 2-5 and 14-16 have been cancelled without prejudice or disclaimer. Claims 26-29 have been newly added. No new matter has been added.

Claims 1-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bridgelall (U.S. Patent No. 6,717,516) in view of Gunzelmann (WO 02/091601). The Office Action took the position that Bridgelall discloses all of the elements of the claims, with the exception of the RF module and the baseband modem being physically separate modules connected by a digital interface. The Office Action then cited Gunzelmann as allegedly curing this deficiency in Bridgelall. This rejection is respectfully traversed for at least the following reasons.

Gunzelmann does not qualify as prior art under any section of 35 U.S.C. §102, and thus fails to qualify as a valid reference under 35 U.S.C. §103(a).

The present application has a priority date of November 10, 2003 based on foreign application EP 03 025 822.2 which was filed in the European Patent Office.

Gunzelmann (WO 02/091601) was published on November 14, 2002 which was less than one year from the priority date of the present application, therefore, Gunzelmann does not qualify as prior art under 35 U.S.C. §102(b).

As for other possibilities 35 U.S.C. §102, Applicants submit that Gunzelmann also fails to qualify as prior art under 35 U.S.C. §102(e). The first portion of 35 U.S.C. §102(e) (“e(1)”), requires the reference be described in an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent. Gunzelmann was published (U.S. Patent Publication 2004/0097250) on November 10, 2003, which is the same day as the priority date of the present application. Gunzelmann was not filed before the priority date of the present application, and thus was not filed before the invention by the applicant for patent. Therefore, Gunzelman does not qualify as prior art under the first portion of 35 U.S.C. §102(e) (“e(1)”).

As for 35 U.S.C. §102(e) (“e(2)”), Gunzelman also fails to qualify as prior art. 35 U.S.C. §102(e) (“e(2)”) requires that a reference be a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language. Gunzelmann (WO 02/091601) was not published under Article 21(2) of the international patent treaty,

which is the treaty referred to in the words of §102(e) (“e(2)”), in the English language. Gunzelmann was published in German and not in English, as required under Article 21(2) of the treaty. Therefore, Gunzelmann does not qualify as prior art under §102(e) (“e(2)”).

Referring to Bridgelall, Applicants submit that Bridgelall fails to teach all of the subject matter of independent claims 1, 6, 13, 17, 22 and new claim 26. Furthermore, the Office Action has admitted certain deficiencies of Bridgelall with respect to those claims. By virtue of dependency, Bridgelall also fails to teach the subject matter of dependent claims 6-12, 18-21, 23-25 and 27-29. Withdrawal of the rejection of claims 1-25 is kindly requested.

For at least the reasons discussed above, Applicants respectfully submit that the cited references fail to disclose or suggest all of the elements of the claimed invention. These distinctions are more than sufficient to render the claimed invention unanticipated and unobvious. It is therefore respectfully requested that all of claims 1, 6-13 and 17-29 be allowed, and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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Enclosures: Additional Claim Fee Transmittal
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